

Continuing Contract Performance During a Pandemic Influenza or other National Emergency

In accordance with guidance from the Homeland Security Council, all federal agencies have been developing plans for keeping our government workforce operational during a pandemic influenza or other emergency periods. The Occupational Health and Safety Administration (OSHA) has provided a directive relative to preparation for an influenza pandemic and includes engineering controls (e.g. sneeze guards, negative pressure rooms), administrative controls (e.g. teleconferencing), work practices (e.g. tissues, no-touch trash cans, hand soap, etc.) and personal protective equipment (e.g. masks or respirators). This directive can be identified by the name: OSHA 3327-02N 2007. The document can be found in its entirety on the internet at: http://www.osha.gov/Publications/influenza_pandemic.html.

During a Pandemic or other emergency, the Architect of the Capitol (AOC) understands that our contractor workforce will experience the same high levels of absenteeism as our federal employees. Although the Excusable Delays and Termination for Default clauses used in government contracts list epidemics and quarantine restrictions among the reasons to excuse delays in contract performance, we expect our contractors to make a reasonable effort to keep performance at an acceptable level during emergency periods.

The Office of Personnel Management (OPM) has provided guidance to federal managers and employees on the kinds of actions to be taken to ensure the continuity of operations during emergency periods. This guidance is also applicable to our contract workforce. Contractors are expected to have reasonable policies in place for continuing work performance, particularly those performing mission critical services during a pandemic influenza or other emergency situation.

The types of actions a federal contractor should reasonably take to help ensure performance are:

- Encourage employees to get inoculations or follow other preventive measures as advised by the public health service.
- Contractors should cross-train workers as backup for all positions performing critical services. This is particularly important for work such as guard services where telework is not an option.
- Implement telework to the greatest extent possible in the workgroup so systems are in place to support successful remote work in an emergency.
- Communicate expectations to all employees regarding their roles and responsibilities in relation to remote work in the event of a pandemic health crisis or other emergency.

- Establish communication processes to notify employees of activation of this plan.
- Integrate pandemic health crisis response expectations into telework agreements.
- With the employees, assess requirements for working at home (supplies and equipment needed for an extended telework period). Security concerns should be considered in making equipment choices; agencies or contractors may wish to avoid use of employees' personal computers and provide them with PCs or laptops as appropriate.
- Determine how all employees who may telework will communicate with one another and with management to accomplish work.
- Practice telework regularly to ensure effectiveness.
- Make it clear that in emergency situations, employees must perform all duties assigned by management, even if they are outside usual or customary duties.
- Identify how time and attendance will be maintained.

It is the contractor's responsibility to advise the government contracting officer if they anticipate not being able to perform and to work with the AOC to fill gaps as necessary. This means direct communication with the contracting officer or in his/her absence, another responsible person in the contracting office via telephone or email messages acknowledging the contractor's notification. The incumbent contractor is responsible for assisting the AOC in estimating the adverse impacts of nonperformance and to work diligently with the AOC to develop a strategy for maintaining the continuity of operations.

The AOC does reserve the right in such emergency situations to use federal employees, employees of other federal agencies, contract support from other existing AOC contractors, or to enter into new contracts for critical support services.

Normal Capitol Complex operations are, at irregular and unanticipated times, interrupted due to events that can occur on the Capitol Complex, e.g., funerals that utilize the Rotunda, closure of Congressional buildings due to unusual activities, etc. These can impact AOC contractor operations. Any AOC contractor that becomes aware of an event that may affect its operations on the Capitol Complex may go to www.aoc.gov/business/contractors/ to receive current information of the operational status of the Capitol Complex.